GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2016 REGULAR SESSION

HOUSE BILL NO. 4

AS ENACTED

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY K. Adler

AN ACT relating to controlled substances and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 218A.010 is amended to read as follows:

As used in this chapter:

(1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner or by his or her authorized agent under his or her immediate supervision and pursuant to his or her order; or

(b) The patient or research subject at the direction and in the presence of the practitioner;

(2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and anticosteroids;

(3) "Cabinet" means the Cabinet for Health and Family Services;

(4) "Child" means any person under the age of majority as specified in KRS 2.015;

(5) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical and geometric isomers, and salts of isomers;

(6) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue;

(7) (a) "Controlled substance analogue," except as provided in paragraph (b) of this subsection, means a substance:

1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and

2. Which has a stimulant, depressant, or hallucinogenic effect on the

central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or

3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(b) Such term does not include:

1. Any substance for which there is an approved new drug application;

2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or

3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance;

(8) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance;

(9) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;

(10) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user;

(11) "Distribute" means to deliver other than by administering or dispensing a controlled substance;

(12) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of administration available as a single unit;

(13) "Drug" means:

(a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and

(d) Substances intended for use as a component of any article specified in this subsection.

It does not include devices or their components, parts, or accessories;

(14) "Good faith prior examination," as used in KRS Chapter 218A and for criminal prosecution only, means an in-person medical examination of the patient conducted by the prescribing practitioner or other health-care professional routinely relied upon in the ordinary course of his or her practice, at which time the patient is physically examined and a medical history of the patient is obtained. "In-person" includes telehealth examinations. This subsection shall not be applicable to hospice providers licensed pursuant to KRS Chapter 216B;

(15) "Hazardous chemical substance" includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in this section or the illegal manufacture of methamphetamine as defined in KRS 218A.1431, which:

(a) Poses an explosion hazard;

(b) Poses a fire hazard; or

(c) Is poisonous or injurious if handled, swallowed, or inhaled;

(16) "Heroin" means a substance containing any quantity of heroin, or any of its salts, isomers, or salts of isomers;

(17) ***"Hydrocodone combination product" means a drug with:***

(a) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium; or

(b) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(18) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance or methamphetamine, the control of which is necessary to prevent, curtail, or limit manufacture;

(19) ~~[(18)]~~ "Intent to manufacture" means any evidence which demonstrates a person's conscious objective to manufacture a controlled substance or methamphetamine. Such evidence includes but is not limited to statements and a chemical substance's usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance or methamphetamine;

(20) ~~[(19)]~~ "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer;

(21)~~[(20)]~~ "Manufacture," except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:

(a) By a practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice;

(b) By a practitioner, or by his or her authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or

(c) By a pharmacist as an incident to his or her dispensing of a controlled substance in the course of his or her professional practice;

(22)~~[(21)]~~ "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances. The term "marijuana" does not include:

(a) Industrial hemp as defined in KRS 260.850;

(b) The substance cannabidiol, when transferred, dispensed, or administered pursuant to the written order of a physician practicing at a hospital or associated clinic affiliated with a Kentucky public university having a college or school of medicine; or

(c) For persons participating in a clinical trial or in an expanded access program, a drug or substance approved for the use of those participants by the United States Food and Drug Administration;

(23)~~[(22)]~~ "Medical history," as used in KRS Chapter 218A and for criminal prosecution only, means an accounting of a patient's medical background, including but not limited to prior medical conditions, prescriptions, and family background;

(24)~~[(23)]~~ "Medical order," as used in KRS Chapter 218A and for criminal prosecution only, means a lawful order of a specifically identified practitioner for a specifically identified patient for the patient's health-care needs. "Medical order" may or may not include a prescription drug order;

(25)~~[(24)]~~ "Medical record," as used in KRS Chapter 218A and for criminal prosecution only, means a record, other than for financial or billing purposes, relating to a patient, kept by a practitioner as a result of the practitioner-patient relationship;

(26)~~[(25)]~~ "Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers;

(27)~~[(26)]~~ "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

(f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and

(g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection;

(28) ~~[(27)]~~ "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms;

(29) ~~[(28)]~~ "Opium poppy" means the plant of the species papaver somniferum L., except its seeds;

(30) ~~[(29)]~~ "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

(31) ~~[(30)]~~ "Physical injury" has the same meaning it has in KRS 500.080;

(32) ~~[(31)]~~ "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;

(33) ~~[(32)]~~ "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;

(34) ~~[(33)]~~ "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, advanced practice registered nurse as authorized under KRS 314.011, or other person licensed, registered, or otherwise permitted by state or federal law to acquire, distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered nurse authorized under KRS 314.011 who is a resident of and actively practicing in

a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail;

(35)~~[(34)]~~ "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal prosecution only, means a medical relationship that exists between a patient and a practitioner or the practitioner's designee, after the practitioner or his or her designee has conducted at least one (1) good faith prior examination;

(36)~~[(35)]~~ "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, optometric practitioner, or advanced practice registered nurse, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(37)~~[(36)]~~ "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216;

(38)~~[(37)]~~ "Presumptive probation" means a sentence of probation not to exceed the maximum term specified for the offense, subject to conditions otherwise authorized by law, that is presumed to be the appropriate sentence for certain offenses designated in this chapter, notwithstanding contrary provisions of KRS Chapter 533. That presumption shall only be overcome by a finding on the record by the sentencing court of substantial and compelling reasons why the defendant cannot be safely and effectively supervised in the community, is not amenable to community-based treatment, or poses a significant risk to public safety;

(39)~~[(38)]~~ "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance;

(40)~~[(39)]~~ "Recovery program" means an evidence-based, nonclinical service that assists

individuals and families working toward sustained recovery from substance use and other criminal risk factors. This can be done through an array of support programs and services that are delivered through residential and nonresidential means;

(41) ~~[(40)]~~ "Salvia" means Salvia divinorum or Salvinorin A and includes all parts of the plant presently classified botanically as Salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of that plant, and every compound, manufacture, derivative, mixture, or preparation of that plant, its seeds, or its extracts, including salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation of that plant, its seeds, or extracts. The term shall not include any other species in the genus salvia;

(42) ~~[(41)]~~ "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his or her conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter;

(43) ~~[(42)]~~ "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution;

(44) ~~[(43)]~~ "Serious physical injury" has the same meaning it has in KRS 500.080;

(45) ~~[(44)]~~ "Synthetic cannabinoids or piperazines" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law, that contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-

Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any compound in the following structural classes:

(a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, and AM-2201;

(b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to JWH-167, JWH-250, JWH-251, and RCS-8;

(c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;

(d) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the

phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent. Examples of this structural class include but are not limited to CP 47,497 and its C8 homologue (cannabicyclohexanol);

(e) Naphthylmethylindoles: Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-175, JWH-184, and JWH-185;

(f) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;

(g) Naphthylmethylindenes: Any compound containing a 1-(1-naphthylmethyl)indene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-176;

(h) Tetramethylcyclopropanoylindoles: Any compound containing a 3-(1-

tetramethylcyclopropoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not further substituted in the tetramethylcyclopropyl ring to any extent. Examples of this structural class include but are not limited to UR-144 and XLR-11;

(i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring system to any extent. Examples of this structural class include but are not limited to AB-001 and AM-1248; or

(j) Any other synthetic cannabinoid or piperazine which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law;

(46) ~~[(45)]~~ "Synthetic cathinones" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law (not including bupropion or compounds listed under a different schedule) structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in one (1) or more of the following ways:

(a) By substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one (1) or more other univalent substituents.

Examples of this class include but are not limited to 3,4-Methylenedioxycathinone (bk-MDA);

(b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of this class include but are not limited to 2-methylamino-1-phenylbutan-1-one (buphedrone);

(c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure. Examples of this class include but are not limited to Dimethylcathinone, Ethcathinone, and α-Pyrrolidinopropiophenone (α-PPP); or

(d) Any other synthetic cathinone which is not approved by the United States Food and Drug Administration or, if approved, is not dispensed or possessed in accordance with state or federal law;

(47) ~~[(46)]~~ "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic cathinones;

(48) ~~[(47)]~~ "Telehealth" has the same meaning it has in KRS 311.550;

(49) ~~[(48)]~~ "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

(a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;

(b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and

(c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;

(50) ~~[(49)]~~ "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance;

(51) ~~[(50)]~~ "Transfer" means to dispose of a controlled substance to another person

without consideration and not in furtherance of commercial distribution; and

(52)~~[(51)]~~ "Ultimate user" means a person who lawfully possesses a controlled substance for his or her own use or for the use of a member of his or her household or for administering to an animal owned by him or her or by a member of his or her household.

➔Section 2. KRS 218A.020 is amended to read as follows:

(1) The Cabinet for Health and Family Services shall administer this chapter and may by regulation add substances to or delete or reschedule all substances enumerated in the schedules set forth in this chapter. In making a determination regarding a substance, the Cabinet for Health and Family Services may consider the following:

(a) The actual or relative potential for abuse;

(b) The scientific evidence of its pharmacological effect, if known;

(c) The state of current scientific knowledge regarding the substance;

(d) The history and current pattern of abuse;

(e) The scope, duration, and significance of abuse;

(f) The risk to the public health;

(g) The potential of the substance to produce psychic or physiological dependence liability; and

(h) Whether the substance is an immediate precursor of a substance already controlled under this chapter.

(2) After considering the factors enumerated in subsection (1) of this section, the Cabinet for Health and Family Services may adopt a regulation controlling the substance if it finds the substance has a potential for abuse.

(3) If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the Cabinet for Health and Family Services, the Cabinet for Health and Family Services may similarly control the substance under this chapter by regulation.~~[If hydrocodone or any drug containing~~

~~hydrocodone is rescheduled to Schedule II in this manner, the prescriptive authority existing on March 19, 2013, of any practitioner licensed under the laws of the Commonwealth to prescribe, dispense, or administer hydrocodone or drugs containing hydrocodone shall remain inviolate and shall continue to exist to the same extent as if those drugs had remained classified as Schedule III controlled substances.~~]

(4) The Cabinet for Health and Family Services shall exclude any nonnarcotic substance from a schedule if the substance may be lawfully sold over the counter without prescription under the provisions of the Federal Food, Drug and Cosmetic Act, or the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970, or the Kentucky Revised Statutes (for the purposes of this section the Kentucky Revised Statutes shall not include any regulations issued thereunder).

(5) The Office of Drug Control Policy may request that the Cabinet for Health and Family Services schedule a substance substantially similar to a synthetic cannabinoid or piperazine or a synthetic cathinone. The cabinet shall consider the request utilizing the criteria established by this section and shall issue a written response within sixty (60) days of the scheduling request delineating the cabinet's decision to schedule or not schedule the substance and the basis for the cabinet's decision. The cabinet's response shall be provided to the Legislative Research Commission and shall be a public record.

➔Section 3. KRS 218A.050 is amended to read as follows:

Unless otherwise rescheduled by administrative regulation of the Cabinet for Health and Family Services, the controlled substances listed in this section are included in Schedule I:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these

isomers, esters, ethers, or salts is possible within the specific chemical designation: Acetylfentanyl; Acetylmethadol; Allylprodine; Alphacetylmethadol; Alphameprodine; Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprodine; Clonitazene; Dextromoramide; Dextrorphan; Diampromide; Diethylthiambutene; Dimenoxadol; Dimepheptanol; Dimethylthiambutene; Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene; Etoxeridine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide; Levophenacylmorphan; Morpheridine; Noracymethadol; Norlevorphanol; Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan; Phenoperidine; Piritramide; Proheptazine; Properidine; Propiram; Racemoramide; Trimeperidine***; 4-chloro-N-[1-[2-(4-nitrophenyl)ethyl]-2-piperidinylidene]-benzenesulfonamide (W-18); 4-chloro-N-[1-(2-phenylethyl)-2-piperidinylidene]-benzenesulfonamide (W-15)***;

(2) Any material, compound, mixture, or preparation which contains any quantity of the following opium derivatives, including their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, or salts of isomers is possible within the specific chemical designation: Acetorphine; Acetyldihydrocodeine; Benzylmorphine; Codeine methylbromide; Codeine-N-Oxide; Cyprenorphine; Desomorphine; Dihydromorphine; Etorphine; Heroin; Hydromorphinol; Methyldesorphine; Methyldihydromorphine; Morphine methylbromide; Morphine methylsulfonate; Morphine-N-Oxide; Myrophine; Nicocodeine; Nicomorphine; Normorphine; Pholcodine; Thebacon;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, or salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation: 3, 4-methylenedioxyamphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; 3, 4,

5-trimethoxyamphetamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 4-methyl-2, 5-dimethoxyamphetamine; Ibogaine; Lysergic acid diethylamide; Marijuana; Mescaline; Peyote; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl benzilate; Psilocybin; Psilocyn; Tetrahydrocannabinols; Hashish; Phencyclidine, 2 Methylamino-1-phenylpropan-1-one (including but not limited to Methcathinone, Cat, and Ephedrone); synthetic drugs; or salvia;

(4) Any material, compound, mixture, or preparation which contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, or salts of isomers is possible within the specific chemical designation: gamma hydroxybutyric acid; and

(5) Any material, compound, mixture, or preparation which contains any quantity of the following substances:

(a) 2-(2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5H-NBOMe);

(b) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5I-NBOMe);

(c) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5B-NBOMe); or

(d) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5C-NBOMe).

➔Section 4. KRS 218A.070 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for Health and Family Services, the controlled substances listed in this section are included in Schedule II:

(1) Any material, compound, mixture, or preparation which contains any quantity of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or

independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) ***of this subsection***, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, including cocaine and ecgonine and their salts, isomers, derivatives and salts of isomers and derivatives, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine***; or***

(e) Hydrocodone.

(2) Any material, compound, mixture, or preparation which contains any quantity of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation: Alphaprodine; Anileridine; Bezitramide; Dihydrocodeine; Diphenoxylate; Fentanyl; Isomethadone; Levomethorphan; Levorphanol; Metazocine; Methadone; Methadone-Intermediate; 4-cyano-2-dimethylamino-4; 4-diphenyl butane; Moramide-Intermediate; 2-methyl-3-morpholino-1; 1-diphenyl-propane-carboxylic acid; Pethidine; Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine, Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate; Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid; Phenazocine; Piminodine; Racemethorphan;

Racemorphan.

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(b) Phenmetrazine and its salts;

(c) Methylphenidate.

➔Section 5. KRS 218A.090 is amended to read as follows:

Unless otherwise rescheduled by regulation of the Cabinet for Health and Family Services, the controlled substances listed in this section are included in Schedule III:

(1) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system: Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid; chlorhexadol; glutethimide; lysergic acid; lysergic acid amide; methyprylon; sulfondiethylmethane; sulfonethylmethane; sulfonmethane;~~[.]~~

(2) Nalorphine;~~[.]~~

(3) Pentazocine (parenteral or injectable form only);~~[.]~~

(4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(a) Not more than one and four-fifths (1.8) grams of codeine, or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(b) Not more than one and four-fifths (1.8) grams of codeine, or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with one (1) or more active nonnarcotic ingredients in recognized

therapeutic amounts;

(c) ~~[Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;~~

~~(d) Not more than three hundred (300) milligrams of dihydrocodeinone, or any of its salts, per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;~~

~~(e)]~~Not more than one and four-fifths (1.8) grams of dihydrocodeine, or any of its salts, per one hundred (100) milliliters or not more than ninety (90) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(d) ~~[(f)]~~ Not more than three hundred (300) milligrams of ethylmorphine, or any of its salts per one hundred (100) milliliters or not more than fifteen (15) milligrams per dosage unit, with one (1) or more ingredients in recognized therapeutic amounts;

(e) ~~[(g)]~~ Not more than five hundred (500) milligrams of opium per one hundred (100) milliliters or per one hundred (100) grams, or not more than twenty-five (25) milligrams per dosage unit, with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(f) ~~[(h)]~~ Not more than fifty (50) milligrams of morphine, or any of its salts, per one hundred (100) milliliters or per one hundred (100) grams with one (1) or more active, nonnarcotic ingredients in recognized therapeutic amounts***;*** ***and*** ~~[.]~~

(g) ~~[(i)]~~ The Cabinet for Health and Family Services may except by regulation any compound, mixture, or preparation containing any stimulant or depressant

substance listed in subsection (1) ***of this section*** from the application of all or any part of this chapter if the compound, mixture, or preparation contains one (1) or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system***; and***~~[.]~~

(5) Any material, compound, mixture, or preparation containing any quantity of any of the following anabolic steroid substances, or any isomer, ester, salt, or derivative thereof:

(a) Boldenone;

(b) Clostebol;

(c) Dehydrochlormethyltestosterone;

(d) Drostanolone;

(e) Ethylestrenol;

(f) Fluoxymesterone;

(g) Formebulone;

(h) Mesterolone;

(i) Methandienone;

(j) Methandriol;

(k) Methenolone;

(l) Methyltestosterone;

(m) Mibolerone;

(n) Nandrolone;

(o) Norethandrolone;

(p) Oxandrolone;

(q) Oxymesterone;

(r) Oxymetholone;

(s) Stanolone;

(t) Stanozolol;

(u) Testolactone;

(v) Testosterone; and

(w) Trenbolone.

~~[(6)~~]This section shall not apply to any material, compound, mixture, or preparation containing any quantity of an anabolic steroid substance, or any isomer, ester, salt, or derivative thereof that is expressly intended for administration through implant to livestock or other nonhuman species, and that is approved by the United States Food and Drug Administration for such use.

➔Section 6. KRS 314.011 is amended to read as follows:

As used in this chapter, unless the context thereof requires otherwise:

(1) "Board" means Kentucky Board of Nursing;

(2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A;

(3) "Nurse" means a person who is licensed or holds the privilege to practice under the provisions of this chapter as a registered nurse or as a licensed practical nurse;

(4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:

(a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and

(b) Planning, implementation, and evaluation based on nationally accepted standards of nursing practice;

(5) "Registered nurse" means one who is licensed or holds the privilege under the

provisions of this chapter to engage in registered nursing practice;

(6) "Registered nursing practice" means the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:

(a) The care, counsel, and health teaching of the ill, injured, or infirm;

(b) The maintenance of health or prevention of illness of others;

(c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced practice registered nurse and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Scope and Standards of Practice or with standards of practice established by nationally accepted organizations of registered nurses. Components of medication administration include but are not limited to:

1. Preparing and giving medications in the prescribed dosage, route, and frequency, including dispensing medications only as defined in subsection (17)(b) of this section;

2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;

3. Intervening when emergency care is required as a result of drug therapy;

4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;

5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and

6. Instructing an individual regarding medications;

(d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care; and

(e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses;

(7) "Advanced practice registered nurse" or "APRN" means a certified nurse practitioner, certified registered nurse anesthetist, certified nurse midwife, or clinical nurse specialist, who is licensed to engage in advance practice registered nursing pursuant to KRS 314.042 and certified in at least one (1) population focus;

(8) "Advanced practice registered nursing" means the performance of additional acts by registered nurses who have gained advanced clinical knowledge and skills through an accredited education program that prepares the registered nurse for one (1) of the four (4) APRN roles; who are certified by the American Nurses' Association or other nationally established organizations or agencies recognized by the board to certify registered nurses for advanced practice registered nursing as a certified nurse practitioner, certified registered nurse anesthetist, certified nurse midwife, or clinical nurse specialist; and who certified in at least one (1) population focus. The additional acts shall, subject to approval of the board, include but not be limited to prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced practice registered nurses who engage in these additional acts shall be authorized to issue prescriptions for and dispense nonscheduled legend drugs as defined in KRS 217.905 and to issue prescriptions for but not to dispense Schedules II through V controlled substances as classified in KRS 218A.060, 218A.070, 218A.080, 218A.090, 218A.100, 218A.110, 218A.120, and 218A.130, under the conditions set forth in KRS 314.042 and regulations promulgated by the Kentucky Board of Nursing on or before August 15, 2006.

(a) ***1.*** Prescriptions issued by advanced practice registered nurses for Schedule II controlled substances classified under KRS 218A.060, ***except***

hydrocodone combination products as defined in Section 1 of this Act, shall be limited to a seventy-two (72) hour supply without any refill.

2. Prescriptions issued by advanced practice registered nurses for hydrocodone combination products as defined in Section 1 of this Act shall be limited to a thirty (30) day supply without any refill.

3. Prescriptions issued under this subsection for psychostimulants may be written for a thirty (30) day supply only by an advanced practice registered nurse certified in psychiatric-mental health nursing who is providing services in a health facility as defined in KRS Chapter 216B or in a regional services program for mental health or individuals with an intellectual disability as defined in KRS Chapter 210.

(b) Prescriptions issued by advanced practice registered nurses for Schedule III controlled substances classified under KRS 218A.080 shall be limited to a thirty (30) day supply without any refill. Prescriptions issued by advanced practice registered nurses for Schedules IV and V controlled substances classified under KRS 218A.100 and 218A.120 shall be limited to the original prescription and refills not to exceed a six (6) month supply.

(c) Limitations for specific controlled substances which are identified as having the greatest potential for abuse or diversion, based on the best available scientific and law enforcement evidence, shall be established in an administrative regulation promulgated by the Kentucky Board of Nursing. The regulation shall be based on recommendations from the Controlled Substances Formulary Development Committee, which is hereby created. The committee shall be composed of two (2) advanced practice registered nurses appointed by the Kentucky Board of Nursing, one (1) of whom shall be designated as a committee co-chair; two (2) physicians appointed by the Kentucky Board of Medical Licensure, one (1) of whom shall be designated as a committee co-

chair; and one (1) pharmacist appointed by the Kentucky Board of Pharmacy. The initial regulation shall be promulgated on or before August 15, 2006, and shall be reviewed at least annually thereafter by the committee.

Nothing in this chapter shall be construed as requiring an advanced practice registered nurse designated by the board as a certified registered nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation;

(9) "Licensed practical nurse" means one who is licensed or holds the privilege under the provisions of this chapter to engage in licensed practical nursing practice;

(10) "Licensed practical nursing practice" means the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:

(a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, advanced practice registered nurse, physician assistant, licensed physician, or dentist;

(b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board;

(c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced practice registered nurse and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;

(d) Teaching, supervising, and delegating except as limited by the board; and

(e) The performance of other nursing acts which are authorized or limited by the

board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;

(11) "School of nursing" means a nursing education program preparing persons for licensure as a registered nurse or a practical nurse;

(12) "Continuing education" means offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge;

(13) "Nursing assistance" means the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse;

(14) "Sexual assault nurse examiner" means a registered nurse who has completed the required education and clinical experience and maintains a current credential from the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the Justice and Public Safety Cabinet in consultation with the Sexual Assault Response Team Advisory Committee pursuant to KRS 216B.400(4);

(15) "Competency" means the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions, and caring behaviors consistent with the nurse's practice role within the context of the public's health, safety, and welfare;

(16) "Credential" means a current license, registration, certificate, or other similar authorization that is issued by the board;

(17) "Dispense" means:

(a) To receive and distribute noncontrolled legend drug samples from pharmaceutical manufacturers to patients at no charge to the patient or any other party; or

(b) To distribute noncontrolled legend drugs from a local, district, and

independent health department, subject to the direction of the appropriate governing board of the individual health department;

(18) "Dialysis care" means a process by which dissolved substances are removed from a patient's body by diffusion, osmosis, and convection from one (1) fluid compartment to another across a semipermeable membrane;

(19) "Dialysis technician" means a person who is not a nurse, a physician assistant, or a physician and who provides dialysis care in a licensed renal dialysis facility under the direct, on-site supervision of a registered nurse or a physician;

(20) "Population focus" means the section of the population within which the advanced practice registered nurse has targeted to practice. The categories of population foci are:

(a) Family and individual across the lifespan;

(b) Adult gerontology;

(c) Neonatal;

(d) Pediatrics;

(e) Women's health and gender-related health; and

(f) Psychiatric mental health; and

(21) "Conviction" means but is not limited to:

(a) An unvacated adjudication of guilt;

(b) Pleading no contest or nolo contendere or entering an Alford plea; or

(c) Entering a guilty plea pursuant to a pretrial diversion order;

Regardless of whether the penalty is rebated, suspended, or probated.

➔Section 7. KRS 320.210 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Kentucky Board of Optometric Examiners;

(2) "Practice of optometry" means:

(a) The evaluation, diagnosis, prevention, or surgical, nonsurgical, or related

treatment of diseases, disorders, or conditions of the eye and its appendages and their impact on the human body provided by an optometrist within the scope of his or her education, training, and experience and in accordance with this chapter, the ethics of the profession, and applicable law. The practice of optometry includes the examination, diagnosis, and treatment of the human eye and its appendages to correct and relieve ocular abnormalities and to determine eye health, the visual efficiency of the human eye, or the powers or defects of vision in any authorized manner, including but not limited to:

1. Prescribing and adapting lenses, contact lenses, spectacles, eyeglasses, prisms, ocular devices, and all routes of administration of pharmaceutical agents,~~[except controlled substances classified in Schedules I and II,]~~ as authorized by KRS 320.240; or
2. Employing vision therapy or orthoptics, low vision rehabilitation, and laser surgery procedures, excluding retina, LASIK, and PRK.

The practice of optometry includes the correction and relief of ocular abnormalities by surgical procedures not excluded in paragraph (b) of this subsection;

(b) The following procedures are excluded from the scope of practice of optometry, except for the preoperative and postoperative care of these procedures:

1. Retina laser procedures, LASIK, and PRK;
2. Nonlaser surgery related to removal of the eye from a living human being;
3. Nonlaser surgery requiring full thickness incision or excision of the cornea or sclera other than paracentesis in an emergency situation requiring immediate reduction of the pressure inside the eye;
4. Penetrating keratoplasty (corneal transplant), or lamellar keratoplasty;

5. Nonlaser surgery requiring incision of the iris and ciliary body, including iris diathermy or cryotherapy;

6. Nonlaser surgery requiring incision of the vitreous;

7. Nonlaser surgery requiring incision of the retina;

8. Nonlaser surgical extraction of the crystalline lens;

9. Nonlaser surgical intraocular implants;

10. Incisional or excisional nonlaser surgery of the extraocular muscles;

11. Nonlaser surgery of the eyelid for eyelid malignancies or for incisional cosmetic or mechanical repair of blepharochalasis, ptosis, and tarsorrhaphy;

12. Nonlaser surgery of the bony orbit, including orbital implants;

13. Incisional or excisional nonlaser surgery of the lacrimal system other than lacrimal probing or related procedures;

14. Nonlaser surgery requiring full thickness conjunctivoplasty with graft or flap;

15. Any nonlaser surgical procedure that does not provide for the correction and relief of ocular abnormalities;

16. Laser or nonlaser injection into the posterior chamber of the eye to treat any macular or retinal disease; and

17. The administration of general anesthesia;

(c) Any person shall be regarded as practicing optometry if he or she:

1. Performs or advertises to perform optometric operations of any kind, including diagnosing or treating diseases of the eye or visual system or deficiencies of the eye and its appendages, or attempts to correct the vision thereof;

2. Prescribes, provides, furnishes, adapts, uses, or employs lenses, prisms, contact lenses, visual therapy, orthoptics, ocular exercise,

autofractometry, or any other means or device for the aid, relief, or correction of the human eye and its appendages, except upon the written prescription of a licensed optometrist; or

3. Uses the words "optometrist," "doctor of optometry," the letters "O.D," or other letters or title in connection with his or her name, which in any way represents him or her as being engaged in the practice of optometry; and

(d) Low vision rehabilitation;

(3) "Appendages" means the eyelids, the eyebrows, the conjunctiva, and the lacrimal apparatus;

(4) "Visual aid glasses" means eyeglasses, spectacles, or lenses designed or used to correct visual defects; provided, however, that nothing in the provisions of this chapter relating to the practice of optometry shall be construed to limit or restrict, in any respect, the sale of sunglasses designed and used solely to filter out light; and further provided that nothing in this chapter relating to the practice of optometry shall be construed to limit or restrict, in any respect, the sale of completely assembled eyeglasses or spectacles designed and used solely to magnify;

(5) "Orthoptic technician" means a person who trains and directs individuals to engage in ocular exercises designed to correct visual defects, and shall not be required to be licensed under the provisions of this chapter if such training and directions are done pursuant to and under the instructions of a duly-licensed physician, osteopath, or optometrist and consists solely of visual training, orthoptics, or ocular exercises; and

(6) "Low vision rehabilitation" means the evaluation, diagnosis, and management of the low vision patient, including but not limited to, prescription, low vision rehabilitation therapy, education, and interdisciplinary consultation when indicated. Any person who prescribes or provides comprehensive low vision care for the

rehabilitation and treatment of the visually impaired or legally blind patient; prescribes corrective eyeglasses, contact lenses, prisms, or filters; employs any means for the adaptation of lenses, low vision devices, prisms, or filters; evaluates the need for, recommends, or prescribes optical, electronic, or other low vision devices; or recommends or provides low vision rehabilitation services independent of a clinical treatment plan prescribed by an optometrist, physician, or osteopath is engaged in the practice of optometry.

➔Section 8. KRS 320.240 is amended to read as follows:

(1) The board shall meet at least once each year, at which time it shall choose from among its members the president, vice president, and secretary-treasurer. In addition, the board, upon call of its officers, may hold meetings at any time as it deems necessary. A full record of the board's proceedings shall be kept in the office of the board and shall be open to inspection at all reasonable times.

(2) The board shall keep a register containing the name, address, and license number of every person licensed to practice optometry in this state.

(3) The Attorney General shall render to the board legal services as it may require in carrying out and enforcing the provisions of this chapter.

(4) Subject to and consistent with the provisions of this chapter, the board shall promulgate reasonable administrative regulations and do any and all things that it may deem necessary or proper for the effective enforcement of this chapter and for the full and efficient performance of its duties hereunder and the reasonable regulation of the profession of optometry and the practice thereof by licensed optometrists. The administrative regulations shall include the classification and licensure of optometrists by examination or credentials, retirement of a license, and reinstatement of a license.

(5) An optometrist shall not administer drugs, prescribe drugs, or perform laser or nonlaser surgery procedures until he or she is licensed by the board. Any

therapeutically licensed optometrist authorized to practice under this section shall meet the educational and competence criteria set forth by the board in order to perform expanded therapeutic procedures. Evidence of proof of continuing competency shall be determined by the board.

(6) Nothing in this chapter shall be construed as allowing any agency, board, or other entity of this state other than the Kentucky Board of Optometric Examiners to determine what constitutes the practice of optometry.

(7) The board shall have the sole authority to determine what constitutes the practice of optometry and sole jurisdiction to exercise any other powers and duties under this chapter. The board may issue advisory opinions and declaratory rulings related to this chapter and the administrative regulations promulgated under this chapter.

(8) The board shall have:

(a) A common seal;

(b) The right to determine what acts on the part of any person licensed as an optometrist in this state shall constitute unprofessional conduct under this chapter; and

(c) Other powers and duties as authorized by this chapter.

(9) The board may administer oaths and require the attendance of witnesses, the production of books, records, and papers pertinent to any matters coming before the board by the issuance of process that shall be served and returned in the same manner as in civil actions and for the disobedience of which the board shall have the power to invoke the same rights as are provided for disobedience of a subpoena or subpoena duces tecum in a civil action.

(10) The board may assist in the prosecution of any violation of this chapter and in the enforcement of any of the provisions of this chapter.

(11) The board shall report its proceedings to the Governor on or about January 1 of each year, including an accounting of all moneys received and disbursed.

(12) The board may permit persons engaging in the practice of optometry under the provisions of this chapter to administer diagnostic pharmaceutical agents limited to miotics for emergency use only, mydriatics, cycloplegics, and anesthetics applied topically only, but excluding any drug classified as a controlled substance pursuant to KRS Chapter 218A. These pharmaceutical agents shall be applied in diagnostic procedures only as part of an eye examination. The application of the diagnostic pharmaceutical agents shall be limited to those persons who have sufficient education and professional competence as determined by the board and who have earned transcript credits of at least six (6) semester hours in a course or courses in general and ocular pharmacology, with particular emphasis on diagnostic pharmaceutical agents applied topically to the eye, from a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation or by the United States Department of Education.

(13) The board may authorize only those persons who have qualified for use of diagnostic pharmaceutical agents as set out in subsection (12) of this section to utilize and prescribe therapeutic pharmaceutical agents in the examination or treatment of any condition of the eye or its appendages. Any therapeutically certified optometrist licensed under the provisions of this subsection shall be authorized to prescribe oral medications, except ***any*** controlled substances classified in ***Schedule***~~[Schedules]~~ I and ***any controlled substances classified in Schedule II other than hydrocodone combination products as defined in Section 1 of this Act***~~[II]~~, for any condition which an optometrist is authorized to treat under the provisions of this chapter. The use of injections for other than treatment of the human eye and its appendages shall be limited to the administration of benadryl, epinephrine, or equivalent medication to counteract anaphylaxis or anaphylactic reaction. In a public health emergency, the commissioner of health may authorize

therapeutically licensed optometrists to administer inoculation for systemic health reasons. The authority to prescribe a ***Schedule II hydrocodone combination product as defined in Section 1 of this Act and a*** Schedule III, IV, or V controlled substance shall be limited to prescriptions for a quantity sufficient to provide treatment for up to seventy-two (72) hours. No refills of prescriptions for controlled substances shall be allowed. The utilization or prescribing of therapeutic pharmaceutical agents shall be limited to those persons who have sufficient education and professional competence as determined by the board and who have earned transcript credits of at least six (6) semester hours in a course or courses in general and ocular pathology and therapy, with particular emphasis on utilization of therapeutic pharmaceutical agents from a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation or by the United States Department of Education. These six (6) semester hours are in addition to the six (6) semester hours required by subsection (12) of this section, making a total of twelve (12) semester hours.

(14) Any optometrist authorized by the board to utilize diagnostic pharmaceutical agents shall be permitted to purchase for use in the practice of optometry diagnostic pharmaceutical agents limited to miotics for emergency use only, mydriatics, cycloplegics, and anesthetics. Any optometrist authorized by the board to utilize therapeutic pharmaceutical agents shall be permitted to prescribe in the practice of optometry therapeutic pharmaceutical agents. Optometrists so authorized by the board to purchase pharmaceutical agents shall obtain them from licensed drug suppliers or pharmacists on written orders placed in the same or similar manner as any physician or other practitioner authorized by KRS Chapter 217. Purchases shall be limited to those pharmaceutical agents specified in this subsection and in subsection (12) of this section, based upon the authority conferred upon the

optometrist by the board consistent with the educational qualifications of the optometrist as set out herein.

➔Section 9. KRS 218A.1430 is amended to read as follows:

(1) (a) A person is guilty of trafficking in synthetic drugs when he or she knowingly and unlawfully traffics in synthetic drugs.

(b) Trafficking in synthetic drugs is a ***Class D felony***~~[Class A misdemeanor]~~ for the first offense and a Class ***C***~~[D]~~ felony for each subsequent offense.

(c) In lieu of the fine amounts otherwise allowed under KRS Chapter 534, for any offense under this subsection the court may impose a maximum fine of double the defendant's gain from the commission of the offense, in which case any fine money collected shall be divided between the same parties, in the same ratio, and for the same purposes as established for forfeited property under KRS 218A.420.

(d) It shall be an affirmative defense to an offense under this subsection that the defendant committed the offense during the course of the defendant's employment as an employee of a retail store and that the defendant did not know and should not have known that the trafficked substance was a synthetic drug.

(2) (a) A person is guilty of possession of synthetic drugs when he or she knowingly and unlawfully possesses synthetic drugs.

(b) Possession of synthetic drugs is:

1. A ***Class A misdemeanor for the first offense; and***

2. A Class D felony for each subsequent offense~~[Class B misdemeanor, except that, KRS Chapter 532 to the contrary notwithstanding, the maximum term of incarceration shall be no greater than thirty (30) days]~~.

➔Section 10. KRS 218A.1401 is amended to read as follows:

(1) A person is guilty of selling controlled substances to a minor when he or she, being eighteen (18) years of age or older, knowingly and unlawfully sells or transfers any quantity of a controlled substance other than ~~[synthetic drugs or]~~salvia to any person under eighteen (18) years of age.

(2) Selling controlled substances to a minor is a Class C felony for a first offense, and a Class B felony for each subsequent offense, unless a more severe penalty for trafficking in controlled substances is applicable, in which case the higher penalty shall apply.

➔Section 11. KRS 530.064 is amended to read as follows:

(1) A person is guilty of unlawful transaction with a minor in the first degree when he or she knowingly induces, assists, or causes a minor to engage in:

(a) Illegal sexual activity; or

(b) Illegal controlled substances activity other than activity involving marijuana~~[, synthetic drugs,]~~ or salvia, as defined in KRS 218A.010;

Except those offenses involving minors in KRS Chapter 531 and in KRS 529.100 where that offense involves commercial sexual activity.

(2) Unlawful transaction with a minor in the first degree is a:

(a) Class C felony if the minor so used is less than eighteen (18) years old at the time the minor engages in the prohibited activity;

(b) Class B felony if the minor so used is less than sixteen (16) years old at the time the minor engages in the prohibited activity; and

(c) Class A felony if the minor so used incurs physical injury thereby.

➔Section 12. KRS 530.065 is amended to read as follows:

(1) A person is guilty of unlawful transaction with a minor in the second degree when he knowingly induces, assists, or causes a minor to engage in illegal controlled substances activity involving marijuana,~~[synthetic drugs,]~~ illegal gambling activity, or any other criminal activity constituting a felony.

(2) Unlawful transaction with a minor in the second degree is a Class D felony.

➔Section 13. Whereas synthetic drugs pose an immediate risk to the health and safety of the citizens of this Commonwealth, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Speaker-House of Representatives

President of Senate

Attest:
Chief Clerk of House of Representatives

Approved
Governor

Date 27 APRIL 2016